

WARSAW MODEL UNITED NATIONS

8-10 October 2009

COMMITTEE GUIDE



WawMUN International Court of Justice

Certain Questions of Mutual Assistance in Criminal Matters

(Djibouti vs. France)

So, you've decided to participate in WawMUN International Court of Justice... Wanna be an advocate? No? Doesn't matter. Nevertheless, good for you! Relax, sit back and enjoy our ICJ booklet!

1. CASE OUTLINE

We've chosen case that we found very interesting. Although it might be challenging, we believe that together we'll manage to solve it. Yes we can!

This is an authentic ICJ case dealing with a dispute over a murder... The case involves France and Djibouti. All started with mysterious circumstances accompanying the murder of Bernard Borrel, French magistrate in Djibouti. His body was found on 19 October 1995. During the investigation misunderstandings arose between the two countries concerned.

The subject of the dispute concerns the refusal by the French governmental and judicial authorities to execute an international letter rogatory regarding the transmission to the judicial authorities in Djibouti of the record relating to the investigation in the "Case against X for the murder of Bernard Borrel", in violation of the Convention on

*Mutual Assistance in Criminal Matters between the Government of the Republic of Djibouti and the Government of the French Republic, of 27 September 1986, and in breach of other international obligations borne by the French Republic to the Republic of Djibouti.*¹

You will find all the necessary information, facts, list of the charges in the Application to which link you can find in Useful Links.

2. PROCEDURE AND PREPARATION

Here you can find the outline of WawMUN ICJ procedure.

1. Motion to open debate
2. Opening statement by prosecution (Djibouti)
3. Opening statement by defense (France)
4. Time for the judges to question the advocates (about witnesses and evidence they're planning to present in court)
5. Prosecution advocates present their evidence – judges vote upon their credibility and decide whether to take it into consideration during the investigation
6. Defense advocates present their evidence – same as above
7. Introduction of the witnesses for the prosecution
 - witnesses are sworn in
 - initial questioning by the prosecuting advocates
 - cross-examination by defense advocates
 - additional questions by the prosecuting advocates (questions that might have arisen during the cross-examination)
 - questions from the judges (if they have any)
 - time for the judges to discuss the witness's testimony in private (if there is a need for that)
8. Introduction of the witnesses for the defense (the same format as above with both sides reversed)
9. Presentation of the closing statement by the prosecuting advocates
10. Presentation of the closing statement by the defense advocates

¹ Application instituting proceedings <http://www.icj-cij.org/docket/files/136/13104.pdf> p. 5

11. Deliberations (judges only)

12. Speeches presented by the judges regarding the guilt or the innocence of the defendant

You'll find all difficult terms explained in the VOCAB

Judges – your task is to decide about the guilt or innocence of the defendant. But that's not all! In order to make a valid decision it is essential that you pay attention to the testimonies of the witnesses. Be critical towards the evidence and testimonies presented by both sides, it is up to you and your colleagues to decide about their credibility.

ATTENTION: Do not let the authentic verdict influence your opinions. Remember, this is a game, you make your decision upon what see and hear during our own investigation.

Advocates – basically, your task is to prove guilt or innocence – depending on which side you are, of course – of the defendant. It is essential you have a deep knowledge of the case, the outline of the events. You have to stay in contact with your witnesses and together prepare questions and testimonies you will present during the investigation in court. It is your task to search for evidence. (don't worry, it's easy, google here is your friend, and you can also count on our help) Your first task in court is to give a short opening statement (see vocab). You have to pay attention to the testimonies of the other side in order to be able to undermine their credibility during the cross-examination.

Witnesses – as a witness you play a certain role of an authentic figure who took an important part in the case. So, basically, you're an actor, a star as you might like to call it. First of all, you have to know very well the case, the outline of the events and, what's crucial, your role in them. Before the beginning of the conference you have to stay in touch with the advocate of your side in order to prepare a credible testimony. Afterwards, you have to answer the questions (don't worry-you might improvise basing on your knowledge of the events). It is up to you and the advocates of your side who you are going to be, provided of course it is an authentic witness from the case. You can find all necessary information on the official site of the case (see useful links).

TIP:

- take notes throughout the whole session, they will turn out very useful during the cross-examination (advocates) or deliberation (judges)

3. USEFUL LINKS

www.wawmun.pl - official WawMUN site

<http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=93&case=136&code=djf&p3=0> –
the official site of the case

<http://www.icj-cij.org/docket/files/136/13104.pdf> - Application Instituting Proceedings

- Accusations p. 5
- Statement of facts p. 9
- *Treaty of Friendship and Co-operation* p. 21
- *Convention on Mutual Assistance in Criminal Matters between the Government of the Republic of Djibouti and the Government of the French Republic* p. 25

4. VOCABULARY

Opening statement- a short speech the advocates give at the beginning of the session in which they demonstrate their aims and means by which they want to achieve them, by for example presenting witnesses and evidence they collected.

Evidence- documents, articles etc. everything you find might be helpful in supporting your opinion. Remember that it all must be authentic!

Swearing in- the formula said by every witness at the beginning of his examination:

"I swear

That the evidence I give

Shall be the Truth

The Whole Truth

And Nothing but the Truth"

Cross-examination – the questioning of a witness by the advocates of the opposite side. Advocates may prepare the questions before or may also ask ones that might have arisen during the initial questioning.

Closing statement – a short speech in which an advocate gives a brief summary of the questionings as well as of the evidence and in which he presents his demands concerning the verdict.

Deliberations – the private meeting of the judges during which they agree upon the verdict. . During the deliberations discussions follow in which all judges try to persuade each other of the validity of their opinions. Finally they will be able to form a block. If there is a significant divergence of opinions among the judges, a second, minority block is formed. Each block has to write its own statement as well as prescribe a punishment (if it considers it necessary). In the statement they have to present their reasoning.

Letter rogatory - a request by which one state court asks a state court in another jurisdiction to perform certain tasks and report to the requesting court .

USEFUL EXPRESSIONS:

- Your honour - addressing a judge:
- Counsel – addressing an advocate (“Counsel for *France/ Djibouti*”)

If you have any questions, feel free to ask.

Contact us:

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Well, all there is left to say is: Good luck! And we hope you’ll enjoy the preparations and the session itself.

See you in October,

Ewa Tarnowska and Dominika Barska